

रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, २८ सितम्बर, १९६८/६ आश्विन, १८९०

GOVERNMENT OF HIMACHAL PRADESH
LAW DEPARTMENT
NOTIFICATION

Simla-2 the 19th June, 1968

No. 6-4/68-LR — The Himachal Pradesh Entertainments Duty Bill, 1968
(Bill No. 4 of 1968) after having received the assent of the President on

the 3rd July, 1968 under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 12 of 1968.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 12 of 1968.

THE HIMACHAL PRADESH ENTERTAINMENTS DUTY ACT, 1968

AN

ACT

to provide for the levy of an entertainments duty in respect of admission to public entertainments.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Entertainments Duty Act, 1968.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act unless the context otherwise requires:—

Definitions.

(a) "admission to an entertainment" includes admission to any place in which the entertainment is being held or is to be held;

(b) "Commissioner" means the Excise and Taxation Commissioner, Himachal Pradesh, for the time being;

(c) "Entertainment Tax Officer" means the officer appointed as such under this Act;

(d) "entertainment" includes any exhibition, performance, amusement, game, sport or race to which persons are ordinarily admitted on payment;

(e) "notification" means a notification published under proper authority in the Himachal Pradesh Government Gazette;

(f) "payment for admission" includes—

(i) any payment made by a person admitted to any part of a place of entertainment and in a case where such person is subsequently admitted to another part thereof for admission to which an additional payment is required, such additional payment, whether actually made or not;

(ii) in cases of free, surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the payment which would have been made if the person concerned had been admitted on payment of the full charges ordinarily chargeable for such admission;

(iii) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment if any, for admission to the entertainment;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "proprietor" in relation to any entertainment includes the owner, partner or a person responsible for the management thereof;

(i) "Government" means the Administrator of the Union territory of Himachal Pradesh;

(j) "ticket" means the pass or token for the purpose of securing admission to an entertainment.

Duty on payments for admission to entertainments.

3. (1) A person admitted to an entertainment shall be liable to pay an entertainment duty at a rate not exceeding half of the payment for admission which the Government may specify, by a notification in this behalf, and the said duty shall be collected by the proprietor and rendered to the Government in the manner prescribed.

(2) A draft of the proposed order specifying the rate of entertainments duty referred to in sub-section (1) shall be notified for the information of all persons likely to be affected thereby and it shall take effect only after the Government has considered all objections received within a period of thirty days from the date of such publication and has notified the same again, with or without modification:

Provided that if the Government consider that such an order should be brought into force at once, the final notification may issue without previous publication:

Provided further that Government may impose an entertainments duty on complimentary tickets at a rate different from that imposed on other kinds of payment for admission subject to the maximum specified in sub-section (1).

(3) Until such time as the duty referred to in sub-sections (1) and (2) has been finally notified, the entertainments duty shall be levied at the rates in force in this behalf immediately before the commencement of this Act.

(4) The final notification specifying the rates of entertainments duty shall be laid before the Legislative Assembly at the session immediately following its publication.

Calculation of duty.

4. Notwithstanding anything in this section the amount of duty shall be calculated to the nearest multiple of five paise by ignoring two paise or less and counting more than two paise as five paise.

Payment made in a consolidated sum.

5. Where the payment for admission to an entertainment is made in a consolidated sum in the form of a subscription or contribution to any society or a season ticket, or a right of admission to an entertainment or series of entertainments during a specified period, or a privilege, right, or facility combined with the right of admission without further payment, or a reduced charge, the entertainments duty shall be paid on the amount of the consolidated sum, but where the Entertainment Tax Officer is of the opinion that the payment of a consolidated sum or any payment for a ticket includes payment for other privileges, rights or facilities besides the admission to an entertainment, or is intended to secure admission to an entertainment, during a period when the duty has not been in operation, the duty shall be charged on such amount as appears to the Entertainment Tax Officer to represent the right of admission to entertainment for which a duty is payable.

Deposit of security by the proprietor.

6. The prescribed authority may, in the manner prescribed, require the proprietor of an entertainment to deposit as security for payment of entertainments duty under this Act, an amount not exceeding one thousand rupees in a Government treasury, and the same shall be so deposited.

Entertainment Tax Officer and other taxing authorities.

7. For carrying out the purposes of this Act the Government may appoint a person as Entertainment Tax Officer and such other persons as it thinks fit to assist the Commissioner.

8. The proprietor of entertainment shall, in the manner prescribed, exhibit at the place of entertainment, the rates of payments for admission and the amount of entertainments duty payable on such rates.

Posting of tables of rates of payments for admission at conspicuous places.

9. (1) Except as otherwise provided in this Act, no person shall enter an entertainment unless he is in possession of a ticket or a complimentary ticket or a pass or a badge supplied by the employer under this Act and no person liable to pay entertainments duty shall so enter without having paid, in the manner prescribed, the duty payable under this Act.

Penalty for non-payment of duty.

(2) A person who enters an entertainment without permission or surreptitiously, with intent to evade the duty payable under this Act shall, on conviction by a Magistrate, be punishable with fine which may extend to Rs. 200 (Rupees two hundred) and, in addition, be liable to pay such duty.

10. Nothing in this Act shall apply to bonafide employees of the proprietor, who are on duty in connection with the entertainment, or to the proprietor when on such duty.

Admission of persons without payment.

11. (1) Save as otherwise provided by this Act no person shall be admitted on payment to any entertainment where the payment for admission is subject to entertainments duty except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purposes of revenue and denoting that the proper entertainments duty has been paid.

Method of levy.

(2) The Government may on the application of the proprietor of any entertainment, in respect of which the entertainments duty is payable, permit the proprietor, on such conditions as the Government may prescribe, to pay the entertainments duty—

- (a) by a consolidated payment of a percentage not exceeding 50 per centum of the gross payment for admission to the entertainment at the rate in force during the period concerned; or
- (b) in accordance with the returns of the payments for admission to the entertainment; or
- (c) in accordance with the results recorded by any mechanical contrivance that automatically registers the number of persons admitted.

12. (1) No entertainments duty shall be levied on payment for admission to any entertainment where the Commissioner is satisfied on application made in this behalf in the prescribed manner that the whole of the net proceeds of the entertainment will be devoted to philanthropic, charitable, educational or scientific purposes which have been approved as such by the Government.

Entertainments exempted from payment of duty.

(2) Nothing in this Act shall apply to any entertainment provided by the staff or students, or both of an academic institution when the proceeds are intended for academic or charitable purposes.

(3) The Government may, for promotion of peace and international goodwill or encouragement of arts and crafts, sports or other public interest, by general or special order, exempt any entertainment or class of entertainments from liability to pay duty under this Act.

Appeal.

13. (1) Any person aggrieved by an order made by the prescribed authority under sub-section (1) of section 17 may, in the prescribed manner, appeal to such higher authority as may be prescribed within thirty days of such order:

Provided that no appeal shall be entertained by such higher authority unless it is satisfied that the amount of duty due and the penalty, if any, imposed on the person has been paid:

Provided further, that if such higher authority is satisfied that the person is unable to pay the duty due or the penalty, if any, imposed or both, it may, for reasons to be recorded in writing, entertain the appeal without the duty or penalty or both having been paid.

(2) Subject to such rules of procedure as may be prescribed, the higher authority may pass on such appeal such order as it may think fit.

Powers of revision.

14. The Commissioner or such other officer, as the Government may, by notification, appoint in this behalf, may of his own motion or on application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in reference thereto as he may deem fit:

Provided that the Commissioner or the other officer may, before deciding such application, direct the applicant to deposit, in whole or in part, the amount of duty due, and the penalty, if any imposed on him under this Act.

Production and inspection of accounts and documents.

15. (1) The proprietor of an entertainment shall on being required to do so by an officer authorised by the Government in this behalf, produce before any officer of the Excise and taxation Department, not below the rank of a Sub-Inspector as may be prescribed, any accounts or documents, relevant to the sales of tickets including complimentary tickets and realisation of the entertainments duty due as may be necessary for the purposes of this Act.

(2) If any officer of Government mentioned in sub-section (1) has reason to suspect that the proprietor of any entertainment is attempting to evade the payment of any entertainments duty due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the proprietor, as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for examination thereof.

Entry into and inspection of places of entertainments.

16. (1) Any officer not below such rank as may be prescribed, may enter into, inspect and search any place of entertainment while the entertainment is proceeding at any reasonable time, for the purpose of ensuring that the provisions of this Act or any rules made thereunder are being complied with, and while doing so, such officer shall not be deemed to be a person, admitted to the entertainment.

(2) The proprietor of every entertainment shall give every reasonable assistance to the aforesaid officer in the performance of his duties under sub-section (1)

Penalty.

17. (1) Where a proprietor of an entertainment commits any of the acts specified in sub-section (1) of section 18, the prescribed authority may, after affording such proprietor a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the duty due, if any a sum not exceeding two thousand rupees:

Provided that in cases of free, surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the

prescribed authority shall direct the proprietor to pay, by way of penalty, a sum equal to twenty-five times the amount of duty found to be due as a result of such entry.

(2) No prosecution for an offence under this Act shall be instituted against a proprietor of an entertainment in respect of the same facts on which a penalty has been imposed on him under sub-section (1).

18. (1) If the proprietor of an entertainment—

Offences and penalties.

(a) fraudulently evades the payment of any duty due under this Act, or

(b) obstructs any officer making an inspection, a search or seizure under this Act, or

(c) acts in contravention of, or fails to comply with any of the provisions of this Act or the rules thereunder, he shall, on conviction, be liable in respect of each such offence to a fine which may extend to two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No court shall take cognizance of an offence under this Act or under the rules made thereunder except on a complaint made by a person authorised in this behalf by the Government and no court inferior to that of a magistrate of the first class shall be competent to try any of the offences under this Act.

19. (1) The prescribed authority may, at any time, accept from a person, who has committed an offence under this Act, by way of composition of such offence, a sum of money not exceeding two hundred and fifty rupees or double the amount of duty payable under this Act, whichever is greater.

Power to compound offences.

(2) On payment of such sum of money as may be determined under sub-section (1), the prescribed authority shall where necessary, report to the court that the offence has been compounded and thereafter no further proceedings shall be taken against the offender in respect of the same offence and the said court shall discharge or acquit the accused, as the case may be.

20. Any sum due under this Act shall be recoverable as arrears of land revenue.

Recoveries.

21. (1) Government may delegate all or any of its powers under this Act except those conferred upon it by section 23 and this section, to any person or authority subordinate to it.

Delegation of powers by the Government.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions, if any as may be laid down by the Government and shall also be subject to control and revision by it.

22. No action shall lie against Government or any of its officer or servant for any act done or purporting to be done in good faith under this Act.

Bar of certain proceedings.

23. (1) The State Government may make rules generally for carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power it may make rules—

(a) for the supply and use of stamps or stamped tickets if required in connection with the levy of entertainments duty or for the stamping of tickets sent to be stamped, and for securing the defacement of stamps when used;

- (b) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon for the payment of the duty on the transfer from one part of a place of entertainment to another;
- (c) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivances for payments of a different amount) and for securing proper records of admission by means of mechanical contrivances;
- (d) for checking of the admission, keeping of accounts and furnishing of returns by the proprietors of entertainments in respect of which entertainments duty is payable in accordance with the provisions of this Act;
- (e) for renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund;
- (f) for keeping of accounts of all stamps used under this Act;
- (g) for prescribing the form of a ticket, pass or token authorising admission to an entertainment;
- (h) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof;
- (i) for the exemption from the entertainments duty on military personnel in uniform;
- (j) for the collection of entertainments duty under this Act and the powers to be exercised by the officers of Government in that behalf;
- (k) for specifying the authorities who would be competent to compound offences under section 19;
- (l) for laying down procedure for the hearing and disposal of appeals under section 13 and applications under section 14 and all other matters incidental thereto.

(3) All rules made under this Act shall be laid before the Legislative Assembly during its session next ensuing after the publication thereof and may be confirmed, amended or revoked by it.

Repeal and savings.

24. The Punjab Entertainments Duty Act, 1936 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Punjab Entertainments Duty Act, 1955 as in force in the territories transferred to Himachal Pradesh under section 5 of Punjab Re-organisation Act, 1966, are hereby repealed.

3 of 1935

16 of 1955

31 of 1966

Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under any of the repealed Acts shall, to the extent of being consistent with the provisions of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act.